

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NOS. WRU-04-14-150 RMU-04-4
---	---------------------------------------

**ORDER GRANTING WAIVER AND DENYING, WITHOUT PREJUDICE,
PETITION FOR RULE MAKING**

(Issued May 13, 2004)

On April 12, 2004, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) a combined request for waiver of the electric energy adjustment clause (EAC) rules and petition for rule making to adopt changes to the EAC. IPL states that a waiver or rule making is necessary because of changes about to occur in the wholesale electricity markets that will impact costs flowing through the EAC. These changes are brought about because of activities of regional transmission organizations approved by the Federal Energy Regulatory Commission (FERC). On April 16, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response. Consumer Advocate does not object to the waiver on a temporary basis, but has not determined whether changes to the EAC rules should be adopted.

The first change about to occur that will impact costs flowing through the EAC is that the PJM Interconnection (PJM) locational marginal pricing market is slated to begin operations on or about May 1, 2004, in the Commonwealth Edison control

area. Currently, charges IPL pays to purchase energy from the Commonwealth Edison control area flow through the EAC to IPL customers. Part of those purchased power charges are implicit costs and credits associated with factors such as transmission constraints. Under the proposed PJM market structure, many of these implicit costs will be made more explicit.

The second major change scheduled to occur is that the Midwest Independent Transmission System Operator, Inc. (MISO), of which IPL is a member, intends to implement new arrangements, identified as the Midwest Market Initiative (MMI), on or about December 1, 2004. Explicit charges and credits for locational marginal pricing and financial transmission rights will replace implicit charges and credits that flow through the EAC today. The MISO MMI will have a much larger impact on IPL than the PJM activities.

IPL argues that the costs and credits associated with both the PJM market and MISO MMI are appropriate for inclusion in the EAC because the new explicit costs and credits replace implicit costs and credits incurred in supplying energy to IPL's customers. IPL's management has no direct control over the market rates associated with locational marginal pricing or financial transmission rights and such charges, based on the volatility in energy markets, are likely to be subject to sudden important changes in level. While 199 IAC 20.9(2)2"b" lists certain costs and credits eligible for EAC inclusion, costs and credits associated with wholesale markets operated by regional transmission organizations were not contemplated when the

rules were adopted. These regional organizations are a recent development in the evolving energy markets.

The Board will grant the request for waiver. The waiver of 199 IAC 20.9(2)2"b" will allow EAC recovery of costs or credits connected to the utility's load serving obligation associated with participation in wholesale energy markets operated by regional transmission organizations. These costs or credits include the purchase and sale of energy, congestion charges associated with locational marginal pricing, and buying and selling financial transmission rights. Replacing implicit costs and credits with explicit costs and credits should make energy costs more manageable and benefit ratepayers. The waiver will be effective until May 31, 2006, subject to EAC rule changes that may be enacted. IPL will be required to file a new waiver request for any extension.

The standards for a waiver found in 199 IAC 1.3 have been satisfied. Application of the rule after the new markets are implemented would shift legitimate costs of providing energy from ratepayers to shareholders. The waiver does not prejudice the legal rights of any person because the costs to be collected are similar to costs collected today. The rule being waived is not mandated by statute and there is no negative impact on the public health, safety, and welfare.

In addition to requesting a waiver, IPL petitioned for rule changes to the EAC to explicitly allow recovery of the costs associated with the new market initiatives. The Board is reluctant to commence a rule making at this time. As noted in IPL's

petition, the details of the PJM market and MISO MMI, as well as IPL's internal processes to implement these plans, are not firmly established.

For example, the Board is a member of the Organization of MISO States. OMS is a non-profit, self-governing organization of representatives from each state with regulatory jurisdiction over entities participating in MISO. Subsequent to IPL's waiver request, the OMS filed comments in FERC Docket No. ER-04-691-000, which deals with MISO's Transmission and Energy Markets Tariff. In its comments, OMS recommended that the initial allocation of financial transmission rights (FTR) only be applied prior to the summer of 2005 and that discussions continue regarding any discrepancies between market participants' expectations and the actual allocations. OMS recommended that a second nomination process to determine a new set of FTR allocations apply for June 1, 2005, through May 31, 2006. This uncertainty in the allocation process demonstrates that it is not yet settled what costs and credits will exist under the MISO tariffs.

Therefore, the Board will deny, without prejudice, the petition for rule making. IPL may refile the petition when the long-term operations of these markets have become more certain. Until that time, the Board believes it is more appropriate to proceed under a waiver, which can be reexamined or modified in short order if warranted by a change in circumstances.

IT IS THEREFORE ORDERED:

1. The request for waiver filed by Interstate Power and Light Company on April 12, 2004, is granted. The waiver is effective until May 31, 2006, subject to any relevant EAC rule changes.

2. The petition for rule making filed by Interstate Power and Light Company on April 12, 2004, is denied, without prejudice.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 13th day of May, 2004.